

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JONATHAN LANGLEY	§	
Plaintiff	§	
	§	
v.	§	CASE NO. 1:18-CV-00443-LY
	§	
INTERNATIONAL BUSINESS MACHINES	§	
CORPORATION	§	
Defendant	§	

PLAINTIFF'S MOTION FOR LEAVE TO FILE A CORRECTED RESPONSE

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Jonathan Langley, Plaintiff herein, and files this Motion for Leave to file a Corrected Response (Docket No. 150) to Defendant International Business Machines Corporation's (IBM) Motion for Summary Judgment (Docket No. 126), and would show the Court as follows:

I

In reviewing his response to Defendant's Motion for Summary Judgment, Plaintiff has identified the following clerical errors in his summary judgment proof and respectfully requests leave to correct the summary judgment record in these particulars:

FN No.	ORIGINAL	CORRECTION
1	Def. Mot. For Summary Judgment, Dkt. No. 93	Def. Mot. For Summary Judgment, Dkt. No. 126
7	Ex. 1, Evidence Qualified for other jobs	Ex. 1 at 256 – 257, 284-285, 1513, 1526, 3308; <i>see also</i> Dkt. No. 126-15, Declaration of Carey Samson
9	Ex. 1, Email correspondence regarding Langley's Termination at IBML_1505, 1621A, 3308	Ex. 1 at IBML 1505, 1621A, 3308, 284; Langley-IBM 573-574 [IBML 284 and Langley-IBM 573-574 included in Ex. 1 and pin cites added to this footnote]

10	Ex. A, Jonathan Langley Affidavit at ____.	<i>See Ex. A</i>
19	Ex. 7	Ex. 7 at Langley-IBM 279
20	<i>Id.</i> [Ex. 7]	Ex. 7 at Langley-IBM 275-276
21	<i>Id.</i> [Ex. 7]	Ex. 7 at Langley-IBM 116-117, 295-298 [page 295-298 referenced in motion not previously attached]
22	<i>Id.</i> [Ex. 7] at 295-298	Ex. 7 at Langley-IBM 295-298 [page 295-298 referenced in motion not previously attached]
23	Ex. 8 at p. 3, Alan Wild Dep. Tr. at 148:21-22	Ex. 8 at p. 3; <i>see also</i> Ex. 5 at 148:16-149:2
30	Ex. 8 at p. 2	Ex. 8 at 2-3
32	<i>Id.</i> [Wild Dep. Tr.] at 5:6-11	CITE & SINGLE QUOTATION MARK DELETED [Plaintiff intended this to be a deduction and citation was inadvertently added]
33	Ex. 11	Ex. 11 at 144:5-145:7; <i>see also</i> Ex. 5 at 126:18-128:8
34	Ex. 4 at IBML-2568, 2563, 2447, 2559, 2452, 3096	Ex. 4 at IBML-2568, 2563, 2447, 2559, 2452, 3096 [2568, 2563, 2452, 3096 referenced in motion were not previously attached]; <i>see also</i> Ex. 10 at 3243
35	See generally <i>Id.</i> at IBML-2367, 2368, 2449, 2454, 3091, 3094, 2500, 2501, 2505	See generally <i>Id.</i> at IBML-2367, 2368, 2449, 2454, 3091, 3094, 2500, 2501, 2505 [page 2501 referenced in motion not previously attached]
41	Ex. 14	Ex. 14A
42	Ex. 14b CLDR	Ex. 14B
69	Ex. 1 at 1509	Ex. 1 at 1505-1509
77	Ex. 14; Ex. 24	Ex. 14 at 1524, 3373, 1443_A; <i>see also</i> Ex. 13 at 70:17-25
82	Ex. 19, Overbay affidavit at 4	CITE DELETED
83	Ex. 19	Ex. 21, attachment to email 1690A

103	Ex. 14, Ex. 24	Ex. 14 at 170:17-25; 1524, 1443_A
104	Ex. 5	Ex. 5 at 230:11-234:11
105	Ex. 14, Ex. 24	Ex. 14 at 3373, 1443_A; <i>see also</i> Ex. 24 at 1339
106	Ex. 22 at IBML-001251	Ex. 22 at IBML 1242-1243
107	Ex. 22 at IBML 1249-1250	<i>Id.</i>
110	Id. IBML-001251	Ex. 22 at IBML-1251
111	Id. IBML-001251	<i>Id.</i>
112	Ex. 27	Ex. 21 at 1690A (Brown Tab)
113	Id. [Ex. 27]	Ex. 27; Ex. 21 at 1690A (Brown Tab)
119	Id. [Ex. 26] Cowley depo, pg. 183:16-19	<i>See generally</i> Ex. 23; <i>see also</i> Ex. 26 at 256:25-257:9
120	Ex. 23	Ex. 23 at 1 – 2
121	Id. [Ex. 23]	Ex. 23 at 8 – 44
122	Id. [Ex. 23]	Ex. 23 at 10 – 44
123	Id. [Ex. 23]	Ex. 23 at 3 – 6
125	Ex. 26, Cowley depo. Pg. 254:25; 257:1-8	Ex. 26 at 254:25 – 257:8
126	<i>See</i> D. Kuang 7/12/19 Supp. Rep. at 10-12, 16-21	<i>See</i> Dkt. No 138, Ex. 2 (7/12/19 Kuang Supplemental Report) at 10-12, 16-21 [<i>Id. citations in footnotes 127-131 are referencing this document</i>]
136	<i>See</i> D. Kuang 7/12/19 Supp. Rep. at 16-20 (“Drawing conclusions from unreliable data can lead to incorrect conclusions that scientists refer to as “false negative” – improperly concluding that there is no significant effect, when in reality the effect exists . . . In the present matter, the data, especially for Bands 7, 8, and 9, falls short.”)	<i>See</i> Dkt. No 138, Ex. 2 (7/12/19 Kuang Supplemental Report) at 16-20 (“Drawing conclusions from unreliable data can lead to incorrect conclusions that scientists refer to as “false negative” – improperly concluding that there is no significant effect, when in reality the effect exists . . . In the present matter, the data, especially for Bands 7, 8, and 9, falls short.”)

	matter, the data, especially for Bands 7, 8, and 9, falls short.”)	
137	<i>Id.</i>	<i>Id.</i> [references Dkt. No 138, Ex. 2 (7/12/19 Kuang Supplemental Report)]
141	See D. Kuang 7/12/19 Supp. Rep. at 16-20	Dkt. No 138, Ex. 2 (7/12/19 Kuang Supplemental Report) at 16-20 [<i>Id. citations in footnotes 142-147 are referencing this document</i>]
150	Langley incorporates Rhoma Young’s Expert Report and Supplemental Declaration herein for all purposes	Langley incorporates Rhoma Young’s Expert Report (Dkt. No. 89, Ex. A (Young Expert Report)) and Supplemental Declaration (Dkt. No. 110-1) herein for all purposes
152	Declaration of Rhoma Young at 5-6	Young’s Supplemental Declaration (Dkt. No. 110-1) at 5-6 [<i>Id. citations in footnotes 153-164 are referencing this document</i>]

II.

Plaintiff further requests the Court to remove the original Response to IBM’s Motion for Summary Judgment (Docket No. 150) from the ability to view or download from Pacer.

Prayer For Relief

Wherefore, Plaintiff respectfully requests the court grant leave to file a Corrected Response to IBM’s Motion for Summary Judgment and to remove Docket No. 150 from Pacer.

Dated: July 31, 2019

Respectfully submitted,



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**ATTORNEYS FOR PLAINTIFF
JONATHAN LANGLEY**

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff has complied with the Court's meet and confer requirement. On July 31, 2019, Plaintiff's counsel conferred via email with IBM's counsel about Plaintiff's motion for leave. Defendant's counsel has not agreed.



Heidi A. Coughlin

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2019, I electronically filed the foregoing Motion for Leave to File a Corrected Response to IBM's Motion for Summary Judgment with the Clerk of Court using the CM/ECF system, which sent notification of such filing to the Court and all counsel of record.



Heidi A. Coughlin